

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150  
Closed Session Location - Room 141

TWO-DAY BOARD MEETING - NOVEMBER 6-7, 2001

FULL BOARD MEETING MINUTES\*

NOVEMBER 6, 2001

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, Vice President  
Florence Bos, Member  
Richard Carpenter, Member  
Sean Harrigan, Member

2. REPORT OF THE EXECUTIVE OFFICER - Walter Vaughn

The Board was advised of the following:

- A. The State Personnel Board was provided with a summary of the meeting with department directors and the Governor's office to discuss the current fiscal situation and the "Governor's Executive Orders" imposing a hiring freeze and directing the reduction of departmental operating expense and equipment budgets by 10%.
- B. To comply with the Governor's Executive Order, State Personnel Board staff reduced printing, special consultants, postage and travel expenditures.

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\* The Summary Minutes for the Board can be obtained at the following Internet address:  
<http://www.spb.ca.gov/servicesrd.cfm>

- C. The Department of Finance has declined to consider any State Personnel Board budget change proposals for the 2001-02 fiscal year in light of the current fiscal problems.
- D. The Court of Appeals decision on the challenge to the state affirmative action statute is now final. State Personnel Board staff will be sending a memo to departments identifying the impact of the decision of the program.

3. REPORT OF THE CHIEF COUNSEL - Elise Rose

The Chief Counsel reported on:

Litigation

- A. State Personnel Board (SPB) v. Department of Personnel Administration (DPA), International Union of Operating Engineers (IUOE), et al. - On October 17, 2001, the Superior Court issued a Notice of Tentative Decision on SPB's petition and complaint challenging various provisions of the MOU's for bargaining units 11, 12, and 13 that replace SPB review of disciplinary actions with a final and binding grievance and arbitration procedure as violating Article VII, section 3 of the California Constitution which provides that the SPB "shall review disciplinary actions." The Court held: SPB's constitutional role in reviewing discipline is essential to preservation of the merit principle; that SPB's constitutionally established jurisdiction cannot be modified by legislative action; that allowing binding arbitration of state employee disciplinary actions without meaningful SPB review would facilitate the imposition of discipline in violation of merit principles with no opportunity for review by either the SPB or the courts; that neither individual employees nor the parties to the MOU's could waive the SPB's constitutionally mandated oversight by substituting for SPB review a procedure that categorically excludes SPB from performing its review function. The Court ordered a writ of mandate and injunctive relief commanding the defendants to cease and desist from enforcing the provisions of the MOU's declared to be unconstitutional and from submitting any appeal of adverse action or rejection during probation to the unlawful process. The Court ruling provided that the tentative decision shall be the Court's decision unless within 10 days any party made proposals not covered in the decision. IUOE

requested that the Court set a briefing to consider whether the Court's ruling would be stayed during the pendency of any appeal. SPB has submitted a proposed judgment to the Court. The Court has not ruled on IUOE's proposal as of today.

- B. Connerly v. State Personnel Board (SPB) ., et al. - The Court of Appeal has issued its remand order to the trial court for implementation of the Court of Appeal decision. SPB staff are working on putting together a memorandum to go out to the departments on the impact of the Connerly decision on the SPB's affirmative action responsibilities.
- C. County of Merced v. State Personnel Board (SPB) (Gabriault) - The Superior Court for the County of Merced upheld the SPB's decision in this case. The SPB held that given Ms. Gabriault's known medical condition, before terminating Ms. Gabriault for performance problems, the Agency had a legal obligation to engage in an interactive process with her to determine whether it could reasonably accommodate her disability. The Court rejected the County's arguments that the SPB had no jurisdiction to invoke the Federal Employment and Housing Act (FEHA) in preventing disability discrimination, that there was no finding that Ms. Gabriault had a covered disability, and that an interactive process is only required for medical demotion, transfer or termination.
- D. Cambra v. State Personnel Board (SPB) (Gayle McCormick) - The Superior Court for Lassen County granted the petition for writ of mandate in this case where the SPB had adopted the Administrative Law Judge's dismissal of one count in a disciplinary action taken against Ms. McCormick on the grounds that she was not timely noticed under the Public Safety Officer's Bill of Rights Act (POBOR) in that the notice was mailed one day late. The Court found that the notice was in fact timely. The Court rejected, however, the contention of the Department of Corrections that the SPB does not have jurisdiction to determine whether there has been a violation of POBOR, upholding the SPB's determination that the statute's grant of initial jurisdiction to the Superior Court is not exclusive.

- A. Select Advisory Panel on State Personnel Board's (SPB) Policy, PRIDe and Appeals Divisions - In furtherance of one of our strategic plan goals, SPB staff put together this select panel to provide stakeholder input to the SPB on various issues identified by the SPB and the panel. The panel has representatives of departments and unions with expertise in various aspects of the SPB's programs. The group had its first meeting on October 30, 2001. The meeting was attended by the SPB's chief counsel and the division chiefs and some key managers of the Policy, PRIDe and Appeals divisions and was facilitated by Larry Hoover. The Panel agreed to meet quarterly. SPB staff briefed the group on each divisions progress on the strategic plans and on current issues for the divisions. Some of the issues raised by the group at this first meeting included: Question 5 on the state application; review of minimum qualifications in class specifications; extension of probationary periods as reasonable accommodations for a disability and recruitment for critical need positions. The Board will receive a copy of the minutes of the meeting. The next meeting will be held on January 29, 2002.
  - B. Council of Counsels - This group will have its first meeting on November 27, 2001, from 9:00 a.m. to Noon at the State Personnel Board. The first meeting will focus on draft proposed regulations and pilot projects. Information will be mailed out to representatives of departments and employees later this week.
  - C. State Employee Mediation Program - An informational seminar will be held at the State Personnel Board on November 15, 2001.
5. REPORT ON LEGISLATION - Judy Balmain

The Board was advised of the following:

- A. State Personnel Board staff has been contacting various state departments and unions to discuss the Board's proposed legislative package in an effort to get their input and support.
- B. Judy Balmain and Carol Ong met with Jackie Wilson and Sandra Sales of the Department of Information Technology to discuss the "Position Specific Examinations" proposal.
- C. State Personnel Board staff is working on an additional legislative proposal that will amend the code sections

to comply with the requirements implemented by the court decision on Proposition 209.

6. ORAL ARGUMENT

Oral argument in the matter of STELLA OYEKA, CASE NO. 00-1045. Appeal from rejection during probation. Franchise Tax Board

ACTION: No oral argument held, written testimony presented to Board and taken under submission

7. ORAL ARGUMENT

Oral argument in the matter of MARK CHAMBERLAIN, CASE NO. 01-0740B. Appeal from backpay. Department of Mental Health.

Persons Participating:

Larry Maldonado, Human Resources Director, representing Department of Mental Health  
Jay Salter, Consultant, California Association of Psychiatric Technicians, representing appellant

ACTION: Submitted

8. ORAL ARGUMENT

Oral argument in the matter of SUSAN BERGER-TULLY, CASE NO. 01-0489P. Appeal from rejection during probation. California State University, Long Beach.

Persons Participating:

Gale Baker, University Counsel, Office of General Counsel, representing California State University  
Richard S. Berger, Attorney at Law, representing appellant  
Hubert Lloyd, Deputy Director for Representation, Unit 9 Chapter 315, California State Employees Association, representing appellant

ACTION: Submitted

9. HEARING - Appeal of the California Department of Forestry and Fire Protection (CDF) from the Executive Officer's June 6, 2001 disapproval of CDF's 25 personal services contracts (contracts) with various medical providers in response to the request for review submitted by the California State Employees association (CSEA).  
Persons Participating:

Bruce A. Crane, Staff Counsel, Department of Forestry and Fire Protection

Galen McCray, Chief, Safety, Department of Forestry and Fire Protection

Dr. Thomas Ferguson, MD, Ph.D., Medical Consultant,  
Department of Forestry and Fire Protection

ACTION: Submitted

10. ORAL ARGUMENT

Oral argument in the matter of CATO HALL, CASE NO. 00-1147P.  
Appeal from dismissal. Department of Corrections.

Persons Participating:

Linda M. Nelson, Labor Relations Counsel, Department of  
Personnel Administration, representing Department of  
Corrections

ACTION: Submitted

11. ORAL ARGUMENT

Oral argument in the matter of DOUGLAS FORS, CASE NO.  
00-3180. Appeal from 6 working days or more suspension.  
Department of Transportation.

Persons Participating:

Cherly D. McNulty, Deputy Attorney, representing Department  
of Transportation  
Sol Allen, Business Representative, IUOE Local 12,  
International Union of Operating Engineers, representing  
appellant

ACTION: Submitted

12. ORAL ARGUMENT

Oral argument in the matter of GLENN FLEMING, CASE NO.  
00-3709. Appeal from 6 working days or more suspension.  
Office of Emergency Services.

Persons Participating:

David Zocchetti, Staff Counsel, representing Governor's  
Office of Emergency Services  
Steven Bassoff, Attorney at Law, representing appellant

ACTION: Submitted

13. HEARING - The California Association of Professional Scientists (CAPS) requests that individuals meet the minimum education requirements prior to transferring into Bargaining Unit 10 classifications.

Persons Participating:

Kristen Haynie, Labor Relations Consultant, California  
Association of Professional Scientists (CAPS)  
Christopher J. Voight, Staff Consultant, CAPS  
Ed Bailey, Chief Radiologic Health, Department of Health  
Services

ACTION: Submitted

A D J O U R N M E N T

CALIFORNIA STATE PERSONNEL BOARD MEETING  
801 Capitol Mall  
Sacramento, California

Public Session Location - Room 150  
Closed Session Location - Room 141

CONCURRENT BOARD MEETING MINUTES

NOVEMBER 7, 2001

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

BOARD MEMBERS PRESENT:

William Elkins, Vice President  
Florence Bos, Member  
Richard Carpenter, Member  
Sean Harrigan, Member

2. ORAL ARGUMENT

Oral argument in the matter of JUDITH BECK, CASE NO. 00-3025.  
Appeal from constructive medical termination. Department of  
California Highway Patrol.

Persons Participating:

Marybelle D. Archibald, Deputy Attorney General, Department  
of Justice, representing California Highway Patrol  
Colin McLeod, Labor Relations Representative, California  
State Employees Association, representing appellant

ACTION: Submitted

3. ORAL ARGUMENT

Oral argument in the matter of TENILLE HABERMAN, CASE NO. 00-3990.  
Appeal from rejection during probation. Department of  
Corrections.



Persons Participating:

Richard J. Burton, Attorney at Law, representing appellant

ACTION: Submitted

4. ORAL ARGUMENT

Oral argument in the matter of DAMON MORRIS, CASE NO. 00-3542. Appeal from dismissal. Department of Youth Authority.

Persons Participating:

Kathryn Allen, Legal Counsel, representing Department of the Youth Authority

Steven Bassoff, Attorney at Law, representing appellant

ACTION: Submitted

5. PLANNING SESSION

ACTION: Planning Session Held

BOARD ACTIONS

6. STATE PERSONNEL BOARD SUMMARY MINUTES OF OCTOBER 16, 2001

ACTION: Adopted on November 7, 2001.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

7. ACTION ON SUBMITTED ITEMS

ACTION: See pages 13-14.

8. ADMINISTRATIVE LAW JUDGE CASES

On November 7, 2001, the Board adopted the following decisions presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

CHIEF COUNSEL RESOLUTION

ROBERT MCCUTCHAN, CASE NO. 97-2291

Appeal dismissal

Teacher (High School - Physical Education) (Correctional Facility)

Department of the Youth Authority  
ACTION: Pursuant to Government Code section 18710, the Board clarified it's Order of June 6-7, 200 to direct the Department of the Youth Authority to reinstate appellant to the position of Teacher (High School - Physical Education) (Correctional Facility)

PROPOSED DECISIONS

ANDREW D. FLORES, Sr., CASE NO. 01-1022  
Appeal from suspension for thirty workdays  
Correctional Officer  
Richard Donovan Correctional Facility  
Department of Corrections  
ACTION: 30 workdays suspension modified to 15 working days suspension

JOSEPH P. GARCIA, CASE NO. 01-2253  
Appeal from suspension for five workdays  
Painter II  
Centinela State Prison  
Department of Corrections  
ACTION: Five workdays suspension sustained

HERLINDA ANDRADE, CASE NO. 00-4264E  
Appeal of discrimination  
Material & Stores Supervisor I  
Wasco State Prison  
Department of Corrections  
ACTION: Discrimination complaint denied

REYNALDO R. GASTELUM, CASE NO. 01-0208  
Appeal from five-percent reduction  
in salary for six months  
Correctional Sergeant  
Centinela State Prison  
Department of Corrections  
ACTION: Five percent reduction in salary for six months modified to an official reprimand

DANIEL RUIZ, CASE NO. 01-1118  
Appeal from dismissal  
Psychiatric Technician  
Department of Developmental Services  
ACTION: Dismissal sustained

BERTHA SILVAS, CASE NO. 01-2146  
Appeal from dismissal  
Psychiatric Technician Assistant  
Department of Developmental Services

ACTION: Dismissal revoked

MARTIN L. SMITH, CASE NO. 98-4017B  
Appeal for determination of back salary,  
benefits, and interest after reinstatement  
Fish & Game Warden  
Department of Fish and Game  
ACTION: Dismissal revoked

PETER SMITH, CASE NO. 01-0577  
Appeal from dismissal  
Special Agent Trainee  
Department of Justice  
ACTION: Dismissal modified to a 30 working days suspension

BILLY G. NELSON, CASE NO. 99-2010  
Appeal from dismissal  
Youth Correctional Officer  
Department of the Youth Authority  
ACTION: Administrative Law Judge's proposed decision  
rejected by Board. Board to decide case itself

VIRGINIA PARKER, CASE NO. 00-3983  
Appeal from ten-percent reduction  
in salary for 12 months  
Correctional Lieutenant  
Ironwood State Prison  
Department of Corrections  
ACTION: Ten percent reduction in salary for 12 months  
sustained

LEO GARCIA, CASE NO. 01-1840  
Appeal from demotion  
Correctional Counselor I  
Department of Corrections  
ACTION: Board modified demotion to an official reprimand

VALERIE ANDERSON, CASE NO. 01-0411  
Appeal from ten percent reduction  
in salary for one year  
Psychiatric Technician  
Department of Developmental Services  
ACTION: Board modified ten percent reduction in salary for  
one year to a 5% reduction in salary for 6 months

VALERIE ANDERSON, CASE NO. 01-0480  
Appeal from dismissal  
Psychiatric Technician  
Department of Developmental Services  
ACTION: Board modified dismissal to informal counseling

ABDUL K. SHABAZZ, CASE NO. 00-3840  
Appeal from ten percent reduction  
in salary for 12 months  
Correctional Officer  
Department of Corrections  
ACTION: Ten percent reduction in salary for 12 months  
sustained

JAMES FOGLE, CASE NO. 01 - 0176  
Appeal from five percent reduction  
in salary for three months  
Industrial Warehouse and Distribution Specialist  
Department of Corrections  
ACTION: Five percent reduction in salary for three months  
revoked

ARBITRATION

ROBERT BARRIOS, JR., CASE NO. 01-2883  
Appeal from one working day suspension  
Officer  
California Highway Patrol  
ACTION: One working day suspension revoked

PETITIONS FOR REHEARING

CRYSTAL D. QUARTEY, CASE NO. 00-1276  
Appeal from Dismissal  
Certified Nursing Assistant  
Department of Veterans Affairs  
ACTION: Petition for rehearing filed by Respondent denied

ELY PICINO, SPB CASE 01-1036  
Appeal from dismissal  
Correctional Officer  
Chowchilla California Women's Facility  
Department of Corrections  
ACTION: Petition for rehearing filed by Appellant denied

JAMES STOLTER, CASE NO. 00-2839  
Appeal from dismissal  
California State University, Northridge  
California State University (CSU)  
ACTION: Petition for rehearing filed by Respondent denied

SONNY SALAZAR, CASE NO. 01-1951  
Appeal from dismissal  
Janitor

Department of General Services

ACTION: Petition for rehearing filed by Appellant denied

KEVIN REDDINGTON, CASE NO. 01-1345P

Appeal from rejection during probationary period

Office Technician (Typing)

Department of Social Services

ACTION: Petition for rehearing filed by Appellant denied

9. RESOLUTION RE NOTICE OF GOVERNMENT CODE SECTION 18671.1  
EXTENSION.

ACTION: See pages 15-17

10. WITHHOLD APPEALS

On November 7, 2001, the Board adopted the following  
decisions presented by Walter Vaughn, Executive Officer,  
California State Personnel Board.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

AMANDA FERRIS, CASE NO. 01-0498

Classification: Correctional Officer

Department of Corrections

ACTION: GRANTED

JAYSON TORRES, CASE NO. 01-0503

Classification: Cadet, CHP

California Highway Patrol

ACTION: DENIED

JOE SLACIDO, CASE NO. 00-3617

Classification: Correctional Officer

Department of Corrections

ACTION: DISMISSED

11. MEDICAL APPEALS

On November 7, 2001, the Board adopted the following  
decisions presented by Walter Vaughn, Executive Officer,  
California State Personnel Board.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

RICHARD ARRIOLA, CASE NO. 01-0632

Classification: Correctional Officer

Department of Corrections

ACTION: DENIED

TONY CURIEL, CASE NO. 01-1987

Classification: Caltrans Landscape Maintenance Worker

Department of Transportation

ACTION: DISMISSED

RICHARD BABB, CASE NO. 01-2521  
Classification: Facility Captain, CF  
Department of Corrections  
ACTION: GRANTED

TASHI GAITHER, CASE NO. 01-2710  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

MELISSA HETZEL, CASE NO. 01-2709  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

PABLO HINOJOSA, CASE NO. 01-2701  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

ROB KETTLE, CASE NO. 01-2711  
Classification: Correctional Administrator  
Department of Corrections  
ACTION: GRANTED

NATHAN MANCEBO, CASE NO. 01-2708  
Classification: Special Agent  
Department of Justice  
ACTION: GRANTED

JON MARSH, CASE NO. 01-2707  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

JUAN RODRIGUEZ-LOPEZ, CASE NO. 01-2706  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

KATHLENE STOBBE, CASE NO. 01-2705  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

SAHER SWEIS, CASE NO. 01-2704  
Classification: Correctional Officer  
Department of Corrections  
ACTION: GRANTED

ROBERT SWICKLA, CASE NO. 01-2703  
Classification: Cadet, CHP  
California Highway Patrol  
ACTION: GRANTED

HOLLY KOCH, CASE NO. 01-2572  
Classification: Correctional Officer  
ACTION: DISMISSED

AUTUMN PATTON, CASE NO. 01-2289  
Classification: Psychiatric Technician Trainee  
ACTION: WITHDRAWN - TO BE SCHEDULED FOR HEARING

PATRICIA STARR, CASE NO. 01-2207  
Classification: Maintenance & Service Occupational Trainee.  
ACTION: DISMISSED

12. MERIT ISSUE COMPLAINT

On November 7, 2001, the Board adopted the following decisions presented by Walter Vaughn, Executive Officer, California State Personnel Board.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

CSEA - SACRAMENTO, CASE NO. 00-4319  
Classification: Employment Program Representatives  
ACTION: DISMISSED

13. NON-HEARING CALENDAR

On November 7, 2001, the Board adopted item "A". This item was presented by Karen Coffee, Chief, Personnel Resources and Innovations Division, California State Personnel Board.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

A. FIRE CAPTAIN

The California Department of Forestry and Fire Protection is proposing revisions to the minimum qualifications for the Fire Captain classification specification.

14. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

Staff has approved the following actions:

A. BOOKBINDER I, II, III AND IV

The Department of Personnel Administration proposes minor revisions to the Bookbinder I, II, III and IV classification specifications.

ACTION: Noted

15. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

A. REQUESTS TO ESTABLISH NEW CEA POSITIONS CURRENTLY UNDER CONSIDERATION

- (1) DEPUTY COMMISSIONER, WORKERS COMPENSATION APPEALS BOARD (3 positions)  
The Department of Industrial Relations proposes to allocate the above position to the CEA category. The 3 allocations to the class of Deputy, Workers' Compensation Appeals Board (Deputy, WCAB), CEA have a strong policy-influencing role within the Department of Industrial Relations (DIR). Incumbents in the class of Deputy, WCAB, proposed for reallocation to the CEA bands, are required to serve as Commissioners, Workers' Compensation Appeals Board (Commissioners, WCAB) when there are vacancies on the Board. While serving in this capacity they must discharge the full duties and responsibilities of Commission members during the time of these vacancies. They must also provide technical guidance to others working within the workers' compensation judicial system, these Deputies, WCAB must also promulgate laws that govern this system. The department indicates that the position is at the second organizational level within the WCAB and will report to the Chairperson.
- (2) CHIEF JUDGE, DIVISION OF WORKERS' COMPENSATION  
The Department of Industrial Relations proposes to allocate the above position to the CEA category. The Chief Judge plans, organizes and directs the statewide staff of Workers' Compensation Administrative Law Judges and support staff of the trial level of the Workers' Compensation Appeals Board ("Board") in program, policies, and procedures of the Board. The department indicates that the position is at the third organizational level and will report to the Administrative Director of the Division of Workers' Compensation.
- (3) ASSISTANT TO THE ADMINISTRATIVE DIRECTOR, POLICY  
The Department of Industrial Relations proposes to allocate the above position to the CEA category. The Assistant to the Director, Policy, serves as a special adviser and serves as a member of the Division of Workers' Compensation's (Division) Executive staff. The position also serves the Administrative Director as key representative and consultant on matters related to policy issues affecting all Division and many Department programs and having broad statewide impact, and serves liaison to other state and private



agencies. The department indicates that the position is at the second organizational level and will report to the Administrative Director.

(4) CHIEF, PROGRAMMATIC SERVICES

The Department of Industrial Relations proposes to allocate the above position to the CEA category. The Chief, Programmatic Services, plans, organizes and directs the non-judicial programmatic responsibilities of the Division of Workers' Compensation (DWC), and is responsible for the supervision and evaluation of all management staff within DWC's Programmatic Services, including the Legal Unit, Managed Care Unit, Research and Evaluation Unit, Claims/Collections/Return to Work Unit, Public Relations Unit, Communication/Education/Information Unit, and Audit and Enforcement Unit. The department indicates that the position is at the second organizational level and will report to the Administrative Director, Division of Workers' Compensation.

(5) CHIEF DEPUTY DIRECTOR

The Department of Boating and Waterways proposes to allocate the above position to the CEA category. This position is responsible for the direct oversight, management and administration of all departmental programs. This position serves as the chief advisor to the director and is responsible for policy development, managing the senior staff, conflict resolution, and the department's most sensitive, complex, and controversial matters. The department indicates that the position is at the first organizational level and will report to the Department Director.

(6) DEPUTY DISTRICT DIRECTOR, PROJECT MANAGEMENT

The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director position will oversee the Project Management Program for the District. This position would be responsible for ensuring that all transportation projects in the District are delivered timely, as well as directing the activities of 21 supervising level project managers and projects generated by five self-help counties/sales tax measures. The Deputy District Director will develop and implement policies and procedures to direct the Single Focal Point staff in four areas (North Bay, South Bay, East Bay, Toll Bridge) for project management activities. The department indicates that the position is at the third organizational level and will report to the District 4 Director.

- (7) DEPUTY DISTRICT DIRECTOR, PROJECT DEVELOPMENT  
The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director position will oversee the Project Development (Design) program. This position would be responsible to ensure that transportation projects meet departmental standards for safety and quality, and will have staff responsible for projects assigned by geographic locations (North, South and East) to allow for close coordination in resolving issues that may arise. The Deputy District Director will be responsible for developing and implementing policies and procedures to direct Project Development in three areas (North Bay, South Bay, East Bay) who are involved in the development of plans, specification and estimates and design oversight for all transportation projects in District 4. The department indicates that the position is at the third organizational level and will report to the District 4 Director.
- (8) DEPUTY DISTRICT DIRECTOR, EXTERNAL AFFAIRS  
The Department of Transportation proposes to allocate the above position to the CEA category. The Deputy District Director, External Affairs position is needed due to the increased level of responsibility and the sensitivity of issues surrounding the onset of the Toll Construction Program and other major construction projects such as the west approach to the San Francisco-Oakland Bay Bridge and the FASTRAK program. With the addition of the Transportation Congestion Relief Program, the Department's visibility and the political sensitivities to the program have significantly increased. Included within the External Affairs Office are the Legislative Affairs and Public Affairs units, both of which deal primarily with the media. The Deputy District Director will develop and implement policies and procedures with the media and organized major public relations efforts publicizing district programs. The department indicates that the position is at the third organizational level and will report to the District 4 Director.

B. EXECUTIVE OFFICER DECISION REGARDING REQUESTS TO  
ESTABLISH NEW CEA POSITIONS

- (1) CHIEF, DIVISION OF SURVEYS

The Department of Managed Health Care's request to allocate the above position to the CEA category has been disapproved, October 5, 2001.

(2) CHIEF, MARKET CONDUCT DIVISION

The Department of Insurance's request to allocate the above position to the CEA category has been approved effective October 9, 2001.

(3) ASSISTANT SECRETARY FOR HAZARDOUS WASTE AND  
CLEANUP PROGRAMS

The California Environmental Protection Agency's request to allocate the above position to the CEA category has been approved effective October 9, 2001.

(4) PLANNING MANAGER

The Department of Water Resources' request to allocate the above position to the CEA category has been approved effective October 9, 2001.

ACTION: Noted

A D J O U R N M E N T

SUBMITTED

1. RICHARD C. TOBY, CASE NO. 00-1572P. Appeal from dismissal. Department of Developmental Services. (Oral argument held July 10, 2001).

ACTION: On November 7, 2001, adopted Board decision revoking the dismissal, reinstating appellant to the position of Psychiatric Technician and ordering backpay, benefits and interest. The Board also ordered that Question 5 on the State Application be changed as set forth in it's decision.\*

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

2. PAUL RODRIQUEZ, CASE NO. 00-1580. Appeal from demotion. Department of Corrections. (Oral argument held September 6, 2001).

ACTION: On November 7, 2001, adopted Board decision revoking the demotion, ordering appellant reinstated to his position as a Parole Agent I, and ordering backpay, benefits and interest.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

3. GERARDO Z. HERNANDEZ, CASE NO. 00-3706. Appeal from five-percent reduction in salary for six months. Department of Corrections. (Oral argument October 2, 2001).

NO ACTION

4. RONALD GONZALES, CASE NO. 01-0220. Appeal from 15 working days suspension. Department of California Highway Patrol. (Oral argument October 2, 2001).

ACTION: On November 7, 2001, adopted Board decision issuing a non-precedential decision sustaining appellant's 15 working day suspension.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

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\*Adopted as Precedential Decision #01-04. [NOTE: Precedential Decisions of the State Personnel Board are published and available by subscription from Continuing Education of the Bar (CEB) in Berkeley. To subscribe, call CEB, toll free, at (800) 924-3924.]

5. D. KIRK SANDEEN, CASE NO. 00-3024P. Appeal from constructive medical termination. Department of California Highway Patrol. (Written material presented October 2, 2001).

ACTION: On November 7, 2001, Board proposed decision granting the appeal from a due process violation.

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.

**NOTICE OF GOVERNMENT CODE § 18671.1 RESOLUTION**

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.



**GOVERNMENT CODE § 18671.1 RESOLUTION**

**WHEREAS**, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

**WHEREAS**, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

**WHEREAS**, the Agenda for the instant Board meeting included an item titled "Notice of Government Code § 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

**WHEREAS**, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

**NOW, THEREFORE, BE IT RESOLVED AND ORDERED** that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

\* \* \* \* \*



I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting on November 7, 2001.

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WALTER VAUGHN  
Executive Officer  
California State Personnel Board

VOTE: Elkins, Bos, Carpenter, Harrigan - Aye.